

IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF OKLAHOMA

**FILED**

APR 14 2011

RICHARD L. HAWKINS,

Petitioner,

vs.

ERIC FRANKLIN, WARDEN,

Respondent.

ROBERT D. DENNIS, CLERK  
U.S. DIST. COURT, WESTERN DIST. OF OKLA.  
BY Yuh DEPUTY

No. CIV-10-1144-W

**ORDER**

On March 9, 2011, United States Magistrate Judge Valerie K. Couch issued a Report and Recommendation in this matter and recommended that the Motion to Deny Petition filed by respondent Eric Franklin, Warden, be granted and that the Petition for Writ of Habeas Corpus ("Petition") filed by petitioner Richard L. Hawkins be denied. The parties were advised of their right to object to the Report and Recommendation, but no objections have been filed within the allotted time.

Upon review of the record and in the absence of any objection, the Court concurs with Magistrate Judge Couch's suggested disposition of Franklin's motion and Hawkins' Petition.

The claims asserted by Hawkins in his Petition challenging his disciplinary misconduct conviction for Possession/Manufacture of Contraband have been adjudicated on their merits in the state courts. Thus, to be entitled to federal habeas relief, Hawkins must establish that the state courts' "adjudication of . . . [his] claim[s] . . . resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established federal law, as determined by the [United States] Supreme Court . . . ." 28

U.S.C. § 2254(d)(1). Hawkins has failed to make the necessary showing with regard to the state courts' resolution of his claims that he was denied due process under the fourteenth amendment to the United States Constitution. E.g., Preble v. Estep, 190 Fed. Appx. 697 (10<sup>th</sup> Cir. 2006)(cited pursuant Tenth Cir. R. 32.1).

Accordingly, the Court

- (1) ADOPTS the Report and Recommendation [Doc. 10] filed on March 9, 2011;
- (2) GRANTS Franklin's Motion to Deny Petition [Doc. 8] filed on December 13, 2010;
- (3) DENIES Hawkins' Petition [Doc. 1] file-stamped October 22, 2010; and
- (4) ORDERS that judgment in favor of Franklin issue forthwith.

ENTERED this 14<sup>th</sup> day of April, 2011.



LEE R. WEST  
UNITED STATES DISTRICT JUDGE